

## REMARKS

The claims are 7 to 12. Original claims 1 to 6 have been cancelled without prejudice in order to advance prosecution. There is a change in only one word of the main claim, the word “determining” has been changed to “measuring” consistent with the teaching of the Specification, pointing out with greater particularity and claiming more distinctly what the applicants regard as the invention. The remaining claims have been amended only to correct their dependency. Support for the change to the main claim is found *inter alia*, but specifically used in paragraphs 13, 43, and 52 of the Specification.

Applicants note that the Office Action mailed on April 6, 2007, refers to the claims in the case as 1 to 4, while the application paperwork and the filed specification contained 6 claims. A telephone call was made to the Examiner in the hope of clarifying this but no response was received.

The Office Action further states that claims 1 and 2 are rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent 5,390,604 to Ingersoll. Claims 3 and 4 stand rejected under 35 U.S.C § 103(a) as being unpatentable over the same reference. It is the Examiner’s position that this reference shows a method of “determining” the time to apex after launch and calculating the time to the desired height of burst.

These rejections are respectfully traversed in their entirety in view of the amendments made above and the arguments which follow.

United States Patent 5,390,604 to Ingersoll is entitled Method of and Apparatus for Mortar Fuze Apex Arming. In this reference, a measurement of the velocity, and vertical distance of an artillery shell is taken shortly after launch. This information is used to determine by calculation when the shell is expected to reach apex and when the shell will reach a desired height of burst. The time to apex is calculated, not measured, and is employed to arm the fuze, not to calculate the time to desired height of burst.

The claims of the present application have now been amended to require that the time to apex or apogee actually be measured, rather than calculated by an extrapolation from a measurement early in the flight of the armament. Such a measurement is both inherently more accurate and fundamentally different than the result “determined” in the Ingersoll reference.

It is submitted, therefore, the the reference does not disclose or suggest the subject matter of the claims as currently presented. The rejection of the claims is submitted to be in error and should be withdrawn. Reexamination of the claims and allowance is respectfully requested.

WHEREFORE, in consideration of the above amendments and arguments, reexamination and allowance are respectfully requested.

Respectfully,

/Robert Charles Beam/  
Robert Charles Beam, Esq.  
Reg. No. 28,182  
Attorney for Applicant  
(973) 724-3411

Mailing Address:  
U.S. Army ARDEC  
Attn: AMSRD-AAR-GC  
R. Beam / Building 3  
Picatinny Arsenal  
New Jersey 07806-5000